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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,683	08/07/2003	Raymond Catherall Atkins	604-690	1794

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NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

EXAMINER	
AU, SCOTT D	

ART UNIT	PAPER NUMBER
2635	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/635,683	ATKINS ET AL.	
	Examiner	Art Unit	
	Scott Au	2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 August 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9 and 11-26* is/are rejected.

7)☒ Claim(s) *10* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 August 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *08072003*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The application of Atkins et al. for an "Enhanced Identification System" filed August 7, 2003 has been examined.

Claims 1-26 are pending.

Drawings

This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

The drawings are objected to because references number 1-3 of figure 2 should be labeled as Tags 1,2, and 3. Correction is required.

Box 118 in figure 8 needs to be labeled as required under 37 CFR 1.83(a).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: reference number "67" in figure 4 is not in the specification. Correction is required.

Figure 1 should be designated by a legend such as--Prior Art--because only that which is old is illustrated. See MPEP 608.02(g).

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract

on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Therefore, "disclosed "(page 22, line 6) is implied, and should be avoided.

The disclosure is objected to because of the following informalities: It is suggest to delete ". "(page 11, line 9 between the and/or); (page 22, line 14, between transponders and (2,3). Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-8 and 11-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh et al. (US# 5,966,083) in view of Stobbe et al. (US# 5,751,570).

Referring to claim 1, Marsh et al. disclose an electronic identification system with transponder muting (i.e. see figure 1) which comprises a reader (2) (i.e. interrogator)

including a transmitter (10) (i.e. transmitter) for transmitting a signal, (col. 2 lines 51-53; see figure 2); and a plurality of transponders (i.e. see figure 9), each transponder (i.e. see figure 4) including a receiver (30) (i.e. antenna of the receiving section) for receiving the reader signal and a transmitter (32) (i.e. antenna of the transmitting section) for generating a transponder signal, wherein on recognizing a transponder signal from a transponder the reader immediately issues a mute instruction, muting all other active transponders and passing control to the said transponder (col. 1 lines 45-50 and col. 5 lines 27-40; modifying the interrogation signal is the mute instruction claimed).

However, Marsh et al. does suggest an arrangement where each transponder (4) ceases to transmit as soon as it has successfully transmitted its identification code to the interrogator (2). As each transponder shut-down, more interference-free time within which other transponders in a group of such transponders can transmit their signals to the interrogator (col. 4 lines 24-55).

Marsh et al. teach all the limitations, but fails to specifically teach a reader which muting all other active transponders and passing control to the said transponder, without the need for a specifically timed acknowledgment to the said controlling transponder.

In the same field of endeavor of identification system, Stobbe et al. disclose a reader which muting all other active transponders (i.e. signal from the reader puts the remaining transponder into an idle state "mute" prevents them from transmitting transponder data after their dead times end) (col. 2 line 42 to col. 3 line 3).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to have used the contention resolution system of Stobbe in the identification system of Marsh et al. in order to permit reliable isolation/communication with a single transponder.

Referring to claim 2, Marsh et al. in view of Stobbe et al. disclose an electronic identification system of claim 1, Marsh et al. disclose wherein the mute instruction comprises a modulation of the reader signal (col. 1 lines 38-45 and lines 60-65, and see abstract).

Referring to claim 3, Marsh et al. in view of Stobbe et al. disclose an electronic identification system of claim 1, Marsh et al. disclose wherein the reader issues an acceptance instruction after the controlling transponder signal has been successfully received by the reader (col. 1 lines 51-56).

Referring to claim 4, Marsh et al. in view of Stobbe et al. disclose an electronic identification system of claim 1, Marsh et al. disclose wherein the transponder includes a random wait timer which triggers the transmission of the transponder signal after a random wait cycle has been completed (col. 6 lines 32-40 and lines 45-59; see figure 10).

Referring to claim 5, Marsh et al. in view of Stobbe et al. disclose an electronic identification system of claim 1, Marsh et al. disclose wherein the reader issues a disabling instruction after the controlling transponder signal has been successfully received by the reader (col. 4 lines 33-39).

Referring to claim 6, Marsh et al. disclose a method of identifying a plurality of transponders comprising the steps of transmitting a reader signal (col. 2 lines 51-53; figure 2), and each transponder receiving the reader signal, wherein on recognizing a transponder signal from a transponder the reader immediately issues a mute instruction (col. 1 lines 45-50 and col. 5 lines 27-40; modifying the interrogation signal is the mute instruction claimed).

However, Marsh et al. does suggest an arrangement where each transponder (4) ceases to transmit as soon as it has successfully transmitted its identification code to the interrogator (2). As each transponder shut-down, more interference-free time within which other transponders in a group of such transponders can transmit their signals to the interrogator (col. 4 lines 24-55).

Marsh et al. teach all the limitations, but fails to specifically teach a reader which muting all other active transponders and passing control to the said transponder, without the need for a specifically timed acknowledgment to the said controlling transponder.

In the same field of endeavor of identification system, Stobbe et al. disclose a reader which muting all other active transponders (i.e. signal from the reader puts the

remaining transponder into an idle state "mute" prevents them from transmitting transponder data after their dead times end) (col. 2 line 42 to col. 3 line 3).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to have used the contention resolution system of Stobbe in the identification system of Marsh et al. in order to permit reliable isolation/communication with a single transponder.

Referring to claim 7, Marsh et al. in view of Stobbe et al. disclose the method of claim 6, Marsh et al. disclose wherein an acceptance instruction is issued by the reader after the controlling transponder signal has been successfully received (col. 1 lines 51-56).

Referring to claim 8, Marsh et al. in view of Stobbe et al. disclose the method of claim 6, Marsh et al. disclose wherein the transmission of the transponder signal by each transponder is triggered after a random wait cycle has been completed (col. 6 lines 32-40 and lines 45-59).

Referring to claim 11, Marsh et al. in view of Stobbe et al. disclose the method of claim 6, Marsh et al. disclose wherein a disabling instruction is issued by the reader after the controlling transponder signal has been successfully received by the reader (col. 4 lines 33-39).

Referring to claim 12, Marsh et al. in view of Stobbe et al. disclose the method of claim 6, Marsh et al. disclose wherein the controlling transponder is permanently disabled by a disabling instruction (col. 4 lines 47-50; the transponder is permanently disabled by allowing the other transponders to transmit their data).

Referring to claim 13, Marsh et al. in view of Stobbe et al. disclose the method of claim 6, Marsh et al. disclose wherein when a transponder detects a mute instruction the random wait cycle is paused (col. 6 lines 37-40 and col. 6 line 61 to col. 7 line 3).

Referring to claim 14, Marsh et al. disclose a transponder (4) (i.e. transponder) comprising a receiver means (30) (i.e. antenna of the receiving section) for receiving a reader signal, transmission means (32) (i.e. antenna of the transmitting section) for transmitting a transponder signal containing data which identifies the transponder whereby in a set of transponders (col. 1 lines 30-42 and lines 58-64; see figures 4 and 9), two or more transponders may transmit their transponder response signals in response to receiving the reader signal (col. 4 lines 17-20), wherein the transponder response signals in response to receiving the reader signal, wherein the transponder is provided with control means (col. 1 lines 63-66 and col. 2 lines 1-8).

However, Marsh et al. does suggest an arrangement where each transponder (4) ceases to transmit as soon as it has successfully transmitted its identification code to the interrogator (2). As each transponder shut-down, more interference-free time within

which other transponders in a group of such transponders can transmit their signals to the interrogator (col. 4 lines 24-55).

Marsh et al. teach all the limitations, but fails to specifically teach a reader which muting all other active transponders and passing control to the said transponder, without the need for a specifically timed acknowledgment to the said controlling transponder.

In the same field of endeavor of identification system, Stobbe et al. disclose a reader which muting all other active transponders (i.e. signal from the reader puts the remaining transponder into an idle state "mute" prevents them from transmitting transponder data after their dead times end) (col. 2 line 42 to col. 3 line 3).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to have used the contention resolution system of Stobbe in the identification system of Marsh et al. in order to permit reliable isolation/communication with a single transponder.

Referring to claim 15, Marsh et al. in view of Stobbe et al. disclose a transponder of claim 14, Marsh et al. disclose wherein the mute instruction from the reader comprises a modulation of the reader, wherein the mute instruction from the reader comprises a modulation of the reader signal and the transponder has detection means for recognizing the modulation (col. 5 lines 27-31 and col. 6 lines 22-26).

Referring to claim 16, Marsh et al. in view of Stobbe et al. disclose a transponder of claim 14, Marsh et al. disclose wherein the controlling transponder is permanently disabled by a instruction from the reader after the controlling transponder signal has been successfully received by the reader (col. 4 lines 47-50; the transponder is permanently disabled by allowing the other transponders to transmit their data).

Referring to claim 17, Marsh et al. in view of Stobbe et al. disclose a transponder of claim 14, Marsh et al. disclose wherein the controlling transponder is disabled for a predetermined period of time after the disabling instruction is issued (col. 4 lines 55-58).

Referring to claim 18, Marsh et al. in view of Stobbe et al. disclose a transponder of claim 14, Marsh et al. disclose wherein the controlling transponder is disabled by the disabling instruction until it is reset (col. 6 line 61 to col. 7 line 3).

Referring to claim 19, Marsh et al. disclose an integrated circuit for use in a transponder (i.e. see figure 11), comprising receiver means (30) (i.e. antenna of the receiving section) for receiving a reader signal, transmission means (32) (i.e. antenna of the transmitting section) for transmitting a transponder signal containing data which identifies the transponder whereby in a set of transponders (col. 1 lines 30-42 and lines 58-64; see figure 4), two or more transponders may transmit their transponder response signals in response to receiving the reader signal (col. 4 lines 17-20), wherein there is provided control means (col. 1 lines 63-66 and col. 2 lines 1-8).

However, Marsh et al. does suggest an arrangement where each transponder (4) ceases to transmit as soon as it has successfully transmitted its identification code to the interrogator (2). As each transponder shut-down, more interference-free time within which other transponders in a group of such transponders can transmit their signals to the interrogator (col. 4 lines 24-55).

Marsh et al. teach all the limitations, but fails to specifically teach a reader which muting all other active transponders and passing control to the said transponder, without the need for a specifically timed acknowledgment to the said controlling transponder.

In the same field of endeavor of identification system, Stobbe et al. disclose a reader which muting all other active transponders (i.e. signal from the reader puts the remaining transponder into an idle state "mute" prevents them from transmitting transponder data after their dead times end) (col. 2 line 42 to col. 3 line 3).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to have used the contention resolution system of Stobbe in the identification system of Marsh et al. in order to permit reliable isolation/communication with a single transponder.

Referring to claim 20, Marsh et al. in view of Stobbe et al. disclose an integrated circuit of claim 19, Marsh et al. disclose wherein in the mute instruction from the reader comprises a modulation of the reader signal and the integrated circuit has detection means for recognizing the modulation (col. 5 lines 27-31 and col. 6 lines 22-26).

Referring to claim 21, Marsh et al. in view of Stobbe et al. disclose an integrated circuit of claim 19, Marsh et al. disclose wherein the controlling transponder is permanently disabled by a disabling instruction form the reader after the controlling transponder signal has been successfully received by the reader (col. 4 lines 47-50; the transponder is permanently disabled by allowing the other transponders to transmit their data).

Referring to claim 22, Marsh et al. in view of Stobbe et al. disclose an integrated circuit of claim 19, Marsh et al. disclose wherein the controlling transponder is disabled for predetermined period of time after the disabling instruction is issued (col. 4 lines 55-58).

Referring to claim 23, Marsh et al. in view of Stobbe et al. disclose an integrated circuit of claim 19, Marsh et al. disclose wherein the controlling transponder is disabled by the disabling instruction until it is reset (col. 6 line 61 to col. 7 line 3).

Referring to claim 24, Marsh et al. disclose a reader comprising transmitter means for transmitting an interrogation signal to at least one transponder at a time when at least one other transponder may transmit in response to the interrogation signal (col. 1 lines 30-42 and lines 58-64) and receiver means for receiving a response signal from a transponder (col. 4 lines 17-20), wherein on recognizing a transponder signal from the

transponder the reader immediately issues a mute instruction (col. 1 lines 45-50 and col. 5 lines 27-40).

However, Marsh et al. does suggest an arrangement where each transponder (4) ceases to transmit as soon as it has successfully transmitted its identification code to the interrogator (2). As each transponder shut-down, more interference-free time within which other transponders in a group of such transponders can transmit their signals to the interrogator (col. 4 lines 24-55).

Marsh et al. teach all the limitations, but fails to specifically teach a reader which muting all other active transponders and passing control to the said transponder, without the need for a specifically timed acknowledgment to the said controlling transponder.

In the same field of endeavor of identification system, Stobbe et al. disclose a reader which muting all other active transponders (i.e. signal from the reader puts the remaining transponder into an idle state "mute" prevents them from transmitting transponder data after their dead times end) (col. 2 line 42 to col. 3 line 3).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to have used the contention resolution system of Stobbe in the identification system of Marsh et al. in order to permit reliable isolation/communication with a single transponder.

Referring to claim 25, Marsh et al. in view of Stobbe et al. disclose a reader of claim 24, Marsh et al. disclose wherein the mute instruction comprises a modulation of

the reader signal (col. 1 lines 38-45 and lines 61-64, col. 2 lines 54-58 and see Abstract).

Referring to claim 26, Marsh et al. in view of Stobbe et al. disclose a reader of claim 24, Marsh et al. disclose wherein the reader issues an acceptance instruction after the controlling transponder signal has been successfully received by the reader (col. 1 lines 51-56).

Claim Objections

Claims 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Referring to claim 10, the following is a statement of reasons for the indication fo allowable subject matter: the prior art fail to suggest limitations that a method of identifying a plurality of transponders, wherein if a mute instruction is received by a transponder before it has begun transmitting a transponder signal, at the end of the random wait cycle the transponder is inhibited from transmitting the transponder signal.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225

USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4, 6-9,14-15,19 and 24-26 are rejected under the judicially created doctrine of double patenting over claims 1,4,6-7,12-13,16 and 19 of U. S. Patent No. 6,661,336. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instants claims are generally broader than the claims in your U.S. Patent No. 6,661,336. See In re Van Ornum and Stang, 214, USPQ 761, 766, and 767 (CCPA) (the court sustained an obvious double patenting rejection of generic claims in a continuation application over narrower species claims in an issued patent); In re Vogel, 164 USPQ 619, 622, and 623 (CCPA 1970) (generic application claim specifying "meat" is obvious double patenting of narrow patent claim specifying "port").

Referring to claims 1 and 24 of (Application No. 10,635,683), the corresponding to (US# 6,661,336) claim 1, discloses an electronic identification system with transponder muting which comprises a reader including a transmitter for transmitting a signal; and a plurality of transponders, each transponder including a receiver for receiving the reader signal and a transmitter for generating a transponder signal,

wherein on recognizing a transponder signal from a transponder the reader immediately issues a mute instruction, muting all other active transponders and passing control to the said transponder, without the need for a specifically timed acknowledgment to the said controlling transponder. Furthermore, (US# 6,661,336) discloses the reader issues an acceptance instruction after the controlling transponder signal has been successfully received by the reader, the acceptance instruction being a modification of the reader signal, wherein the modification of the reader signal occurs immediately after successful identification of the controlling transponder signal, the modification of the reader signal always occurring for a period shorter than the length of the controlling transponder signal.

Referring to claims 2 and 25 of (Application No. 10,635,683), corresponding to (US# 6,661,336) claim 4.

Referring to claims 3 and 26 of (Application No. 10,635,683), corresponding to (US# 6,661,336) claim 1.

Referring to claim 4 of (Application No. 10,635,683), corresponding to (US# 6,661,336) claim 6.

Referring to claim 6 of (Application No. 10,635,683), corresponding to (US# 6,661,336) claim 7, discloses a method of identifying a plurality of transponders comprising: transmitting a reader signal from a reader; receiving the reader signal in each transponder; recognising in the reader a transponder signal transmitted from a transponder and immediately issuing a mute instruction from the reader, muting all other active transponders and passing control to the said transponder, without the need for a specifically timed acknowledgement to the said controlling transponder. Furthermore, (US# 6,661,336) discloses issuing an acceptance instruction from the reader after the controlling transponder signal has been successfully received by the reader, the acceptance instruction being a modification of the reader signal, wherein the modification of the reader signal occurs immediately after successful identification of the controlling transponder signal, the modification of the reader signal always occurring for a period shorter than the length of the controlling transponder signal.

Referring to claim 7 of (Application No. 10,635,683), corresponding to (US# 6,661,336) claim 7.

Referring to claim 8 of (Application No. 10,635,683), corresponding to (US# 6,661,336) claim 12.

Referring to claim 9 of (Application No. 10,635,683), corresponding to (US# 6,661,336) claim 12.

Referring to claim 14 of (Application No. 10,635,683), corresponding to (US# 6,661,336) claim 13, discloses a transponder comprising: receiver means for receiving a reader signal; transmission means for transmitting a transponder signal containing data which identifies the transponder, whereby in a set of transponders, two or more transponders may transmit their transponder response signals in response to receiving the reader signal; and control means whereby on recognising a mute instruction in the reader signal all other active transponders in the set but one are muted and control is passed to said one transponder, without the need for a specifically timed acknowledgement to the said controlling transponder. Furthermore, (US# 6,661,336) discloses the control means recognising an acceptance instruction from the reader after the controlling transponder signal has been successfully received by the reader, the acceptance instruction being a modification of the reader signal, wherein the modification of the reader signal occurs immediately after successful identification of the controlling transponder signal, the modification of the reader signal always occurring for a period shorter than the length of the controlling transponder signal.

Referring to claim 15 of (Application No. 10,635,683), corresponding to (US# 6,661,336) claim 16.

Referring to claim 19 of (Application No. 10,635,683), corresponding to (US# 6,661,336) claim 19, discloses an integrated circuit for use in a transponder, comprising: receiver means for receiving a reader signal; transmission means for transmitting a transponder signal containing data which identifies the transponder, whereby in a set of transponders, two or more transponders may transmit their transponder response signals in response to receiving the reader signal; and control means whereby on recognising a mute instruction in the reader signal all other active transponders in the set but one are muted and control is passed to said one transponder; without the need for a specifically timed acknowledgement to the said controlling transponder. Furthermore, (US# 6,661,336) discloses the control means recognising an acceptance instruction from the reader after the controlling transponder signal has been successfully received by the reader, the acceptance instruction being a modification of the reader signal, wherein the modification of the reader signal occurs immediately after successful identification of the controlling transponder signal, the modification of the reader signal always occurring for a period shorter than the length of the controlling transponder signal.

Claims 5,11-13,16-18 and 20-23 of (Application No. 10,635,683) are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the US Patent # 6,661,336 as applied to claims 1,6,14 and 19 above, and further in view of Marsh et al. (US# 5,966,083).

Referring to claims 5, 11 and 16 of (Application No. 10,635,683) claims the system, method and transponder of claims 1, 6 and 14. However, Application No. 10,635,683) did not explicitly claim wherein the reader issues a disabling instruction after the controlling transponder signal has been successfully received by the reader.

In the same field of endeavor of identification system, Marsh et al. disclose wherein the reader issues a disabling instruction after the controlling transponder signal has been successfully received by the reader (col. 4 lines 33-39).

Therefore, it would have been obvious to a person of skilled in the art at the time of the invention was made to use the method of wherein the reader issues a disabling instruction after the controlling transponder signal has been successfully received by the reader of Marsh et al. in the identification system of US Patent # 6,661,336 with the motivation for doing so would prevent the used of power of the transponders.

Referring to claim 12 of (Application No. 10635,683), US Patent # 6,661,336 claim double patenting of the method of claim 6, Marsh et al. disclose wherein the controlling transponder is permanently disabled by a disabling instruction (col. 4 lines 47-50; the transponder is permanently disabled by allowing the other transponders to transmit their data).

Referring to claim 13 of (Application No. 10,635,683), US Patent # 6,661,336 claim double patenting of the method of claim 6, Marsh et al. disclose wherein when a

transponder detects a mute instruction the random wait cycle is paused (col. 6 lines 37-40 and col. 6 line 61 to col. 7 line 3).

Referring to claim 17 (Application No. 10,635,683), US Patent # 6,661,336 claim double patenting of the method of claim 14, Marsh et al. disclose wherein the controlling transponder is disabled for a predetermined period of time after the disabling instruction is issued (col. 4 lines 55-58).

Referring to claim 18 (Application No. 10,635,683), US Patent # 6,661,336 claim double patenting of the method of claim 14, Marsh et al. disclose wherein the controlling transponder is disabled by the disabling instruction until it is reset (col. 6 line 61 to col. 7 line 3).

Referring to claim 20 of (Application No. 10,635,683) claims the integrated circuit of claim 19. However, Application No. 10,635,683) did not explicitly claim wherein in the mute instruction from the reader comprises a modulation of the reader signal and the integrated circuit has detection means for recognizing the modulation.

In the same field of endeavor of identification system, Marsh et al. disclose wherein in the mute instruction from the reader comprises a modulation of the reader signal and the integrated circuit has detection means for recognizing the modulation (col. 5 lines 27-31 and col. 6 lines 22-26).

Therefore, it would have been obvious to a person of skilled in the art at the time of the invention was made to include wherein in the mute instruction from the reader comprises a modulation of the reader signal and the integrated circuit has detection means for recognizing the modulation of Marsh et al. in the identification system of US Patent # 6,661,336 with the motivation for doing so would transponder to recognize modulated signal is received.

Referring to claim 21 (Application No. 10,635,683), US Patent # 6,661,336 claim double patenting of the method of claim 19, Marsh et al. disclose wherein the controlling transponder is permanently disabled by a disabling instruction form the reader after the controlling transponder signal has been successfully received by the reader (col. 4 lines 47-50; the transponder is permanently disabled by allowing the other transponders to transmit their data).

Referring to claim 22 (Application No. 10,635,683), US Patent # 6,661,336 claim double patenting of the method of claim 19, Marsh et al. disclose wherein the controlling transponder is disabled for predetermined period of time after the disabling instruction is issued (col. 4 lines 55-58).

Referring to claim 23 (Application No. 10,635,683), US Patent # 6,661,336 claim double patenting of the method of claim 19, Marsh et al. disclose wherein the controlling

transponder is disabled by the disabling instruction until it is reset (col. 6 line 61 to col. 7 line 3).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

MacLellan et al. (US# 5,940,006) disclose an enhanced uplink modulated backscatter system.

Any inquiry concerning this communication or earlier communications form the examiner should be directed to Scott Au whose telephone number is (571) 272-3063. The examiner can normally be reached on Mon-Fri, 8:30AM – 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached at (571) 272-3068. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-3906.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-305-3900.

Scott Au

MICHAEL HORABIK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600